IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FOURTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

-

WRIT PETITION NO : 13482 of 2005

Between:

Veeravalli Pullaiah, S/o. Nagaiah, Cultivation,
R/o. Narasannapalem Village, Lingapalem Mandal, W.G.District.

..... PETITIONER

AND

1 Divisional Engineer (Assessment), Eastern Power Distribution Company of A.P. Ltd.,
Rajahmundry.
2 Assistant Divisional Engineer (Operation), Eastern Power Distribution Company of
A.P. Ltd., Rural, Eluru.
3 Assistant Accounts Officer (ERO), Eastern Power Distribution Company of A.P. Ltd., Rural Eluru.
4 Station House Officer, APTS Police Station, APEPDCL, Eluru, W.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the provisional Assessment notice ADE/O/ELR/Sub-Eng/D No.698, Dt. 13.6.2005 issued by the 2nd respondent is illegal, irregular, arbitrary and violative of principles of natural justice and violative of Articles 14 and 21 of Constitution of India and also the provisions of Electricity Act 2003 and consequently direct the respondents not to disconnect power supply for the service connection No.19, category II at Narasannapalem distribution.

Counsel for the Petitioner: MR.SATYANARAYANA NIMMAGADDA

Counsel for the Respondents: MR.V.AJAYAKUMAR

The Court made the following:

ORAL ORDER:

Heard the learned counsel for the petitioner and Sri V.Ajay Kumar, learned Standing Counsel for the respondents.

2. This Writ Petition is filed by the petitioner, aggrieved by the provisional assessment notice dated 13.6.2005 issued by the 2nd respondent estimating the value of the energy pilfered at Rs.54,260/- and in directing the petitioner to pay half of the estimated value, i.e., a sum of Rs.27,130/-. It is the case of the petitioner that the Electricity Act, 2003 neither empowers the respondents to assess any amount without notice nor are the respondents entitled to disconnect power supply based on provisional assessment order.

3. Both parties agree that the subject matter of this Writ Petition is covered by a Judgment of this Court in Writ Petition No.2356 of 2005, dated 11.2.2005, wherein the learned single Judge, relying on an earlier order of the Division Bench of this Court in Writ Appeal Nos.452 and 477 of 2004, dated 11.3.2004, held that a consumer cannot be required to make any payment on the strength of an order of provisional assessment.

4. In the result, the Writ Petition is allowed in terms of the aforesaid judgments and the respondents are directed not to disconnect and to restore power supply in case it has already been disconnected, without insisting on payment of any amount on the strength of the provisional assessment order. The respondents are further directed to continue power supply subject to payment of consumption charges by the petitioner. There shall be no order as to costs.

24.06.2005

SSR

Issue copy by Monday.

(BO)

To

1 The Divisional Engineer (Assessment), Eastern Power Distribution Company of A.P.
Limited, Rajahmundry.
2 The Assistant Divisional Engineer (Operation), Eastern Power Distribution Company
of A.P. Limited, Rural, Eluru.
3 The Assistant Accounts Officer (ERO), Eastern Power Distribution Company of A.P.
Limited, Rural Eluru.
4 The Station House Officer, APTS Police Station, APEPDCL, Eluru, W.G.District.

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